IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 16TH JULY 2007 / 25TH ASHADHA 1929

WP(C).No. 12179 of 2007(Y)

AGAINST THE ORDER IN IA.214/2007 IN
OS.115/2005 of MUNSIFF COURT, KALPETTA

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PETITIONER:

CHAPPAN, AGED 62 YEARS, S/O.LATE KELU,
NARANGALOOLA HOUSE, EDKUNNANKUNU,
KOTTATHARA P.O., KOTTATHARA AMSOM DESOM,
VYTHIRI TALUK.

BY ADV. SRI.C.A.CHACKO
SMT.C.M.CHARISMA
SRI.N.A.SHAFEEK

RESPONDENTS:

RAMAN, AGED 68 YEARS, S/O.LATE KELU,
PUTHENPURAKKAL HOUSE, EDAKUNNANKUNNU,
KOTTATHARA P.O.,KOTTATHARA AMSOM DESOM,
VYTHIRI TALUK.

BY ADV. SRI.P.RAMAKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS EXTS:

EXT.P1: TRUE COPY OF THE AFFIDAVIT FILED BY THE PETITIONER ALONG WITH I.A. NO: 214/07 IN O.S. 115/05 BEFORE THE MUNSIFF COURT, KALPETTA

EXT.P2: -DO- OF THE ORDER DT.7.3.2007 IN I.A. NO: 214/2007 IN O.S. NO: 115/2005 OF THE MUNSIFF COURT, KALPETTA

jj / TRUE COPY /

P.A. TO JUDGE

M.N.KRISHNAN, J.

WP(C)No. 12179 OF 2007 Y

Dated this the 16th July, 2007.

JUDGMENT

This writ petition is filed seeking to set aside Ext.P2 order. The court has appointed a commissioner to inspect the property and the plaintiff moved an application for inspection of the property with the assistance of a private surveyor. It was disallowed by the court. The plaintiff wanted the assistance of a private surveyor not for any other reason but on account of the fact that the assistance of the Taluk Surveyor was not obtained at all in spite of repeated chances. I feel, this Court should come to the rescue of the plaintiff in such cases and give appropriate directions so that the Taluk Surveyor's assistance is obtained by a commissioner of the court to inspect the property. The court below was right in not appointing a private surveyor because he may not have access to the records which is available in the village office or Taluk Surveyor's office. I request the learned Govt. Pleader who is available here to give appropriate instructions to the District Collector, Wayand to make the service of the Taluk Surveyor available to the commissioner. The commissioner shall fix the date of inspection at least one month prior to the actual inspection and give a notice to the surveyor

so that the surveyor can give his convenient date for inspection and thereafter the work can be finished with his assistance and the commissioner can return the warrant after due execution. Writ petition is disposed of accordingly.

Registry is also directed to issue a copy to the Govt. Pleader free of cost. Till the commissioner visits and submits a plan and report the learned Munsiff is directed not to proceed with the suit.

M.N.KRISHNAN
Judge

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